



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/677,594	10/01/2003	Donald A. Bistline	Don 2	8221

7590 08/04/2005

THOMAS M. THIBAUT
11340 VISTA SORRENTO PKWY #306
SAN DIEGO, CA 92130

EXAMINER

WRIGHT, ANDREW D

ART UNIT PAPER NUMBER

3617

DATE MAILED: 08/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/677,594	Applicant(s) BISTLINE, DONALD A.	
	Examiner Andrew Wright	Art Unit 3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 30-47 is/are pending in the application.
- 4a) Of the above claim(s) 1-4 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 30-35 is/are allowed.
- 6) ☒ Claim(s) 36 and 42-47 is/are rejected.
- 7) ☒ Claim(s) 37-41 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the housing covering a fin mounting fastener (claim 30) must be shown or the feature(s) canceled from the claim(s); the housing having a depression that receives the fin mounting fastener (claim 35) must be shown or the feature(s) canceled from the claim(s); the means for covering having a depression that receives the fin mounting fastener (claim 42) must be shown or the feature(s) canceled from the claim(s); placing a housing over a fin mounting fastener (claims 44 and 46) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New

Art Unit: 3617

Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 36 is rejected under 35 U.S.C. 102(b) as being anticipated by Cartwright (US 5,109,683). The member (4) is the means for covering. It covers at least part of a mast track. The mast track fastens a sail to the board. A sail constitutes a fin. Thus the mast track is a fastener for mounting a fin to the board. Therefore, the mast track is a fin mounting fastener. The lock (60) and second member (38) constitute a means for locking the means for covering to the bottom surface of the board.

4. Claims 36 and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Williams (US 4,340,376). Bracket (36) is the means for covering. It covers fin mounting fastener (26). Lock (13) is the means for locking the means for covering to the bottom surface of the board. Regarding claim 42, bracket (36) has a depression (37) that receives the fin mounting fastener (26). The depression is in the bottom surface of the bracket.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 43-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cartwright (US 5,109,683). Cartwright does not disclose the recited method steps. The method steps, however, are inherent in the making and use of the Cartwright apparatus. Regarding claim 43, the use of the Cartwright apparatus necessarily includes covering mast track (10) with housing (40), and necessarily includes locking the housing to the board with lock (60). Regarding claim 44, the first shaft (42) is inserted into the channel, the first shaft has a tab at a distal end that is parallel to the channel. Regarding claim 45, the first shaft with tab is inserted into entry channel (32) and then the housing is rotated as tab is slid down toward the position shown in figure 4. The tab engages a lip of the channel. The second shaft is extended into the entry channel and slid to the position shown in figure 4. Then the lock is secured. Regarding claim 46, both the first shaft and second shaft are inserted into the channel, and the first shaft has a tab that is parallel to the channel. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to devise the claimed method steps based upon operation of the apparatus disclosed by Cartwright. The motivation would be to use the apparatus as described by Cartwright.

Art Unit: 3617

7. Claims 43 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frizzell (US 5,934,963). Frizzell shows a locking apparatus that comprises an object (41). First shaft (40) and second shaft (43) extend from the bottom surface of the object. Tab (47) is located at the distal end of the first shaft (40). In use, the first shaft and second shaft are inserted into a channel (17) of the board. The first shaft is rotated about an axis that is perpendicular to the bottom surface of the object (41). The tab engages a lip (18T) in the channel. The object (41) covers a portion of fin box (14) which is a fin mounting fastener. The act of turning the first shaft such that the tab engages the lip constitutes locking the object to the board. Therefore, the recited method steps are inherent in the making and use of the Frizzell apparatus. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to devise the claimed method steps based upon operation of the apparatus disclosed by Frizzell. The motivation would be to use the apparatus as described by Frizzell.

Allowable Subject Matter

8. Claims 30-35 are allowed.

9. Claims 37-41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

10. Applicant's arguments filed 5/24/05 have been fully considered but they are not persuasive. Applicant first argues that the drawing objections should be withdrawn because the specification adequately describes the subject matter (Remarks of 5/24/05, page 10). This is not persuasive. It is clearly stated in 37 CFR 1.83 that "[t]he drawing in a nonprovisional application must show every feature of the invention specified in the claims." The claims recite features that are not conventional, and therefore must be shown in the drawings.

11. Applicant's correction of the objections to the specification is noted. The objection is withdrawn.

12. Applicant's correction of the objections to the claims is noted. The objections are withdrawn.

13. The previous 35 USC 112/2nd Paragraph rejection is withdrawn. In accordance with Office policy, the claims are being construed as not invoking 35 USC 112/6th Paragraph. Thus the issue of determining the "corresponding structure" and any "equivalents thereof" is moot until such time as 35 USC 112/6th Paragraph is properly invoked. Therefore, at this time, the scope of the claims can be ascertained and the claims are not indefinite.

14. Applicant argues that Cartwright ('683) does not teach the elements of claim 36. Applicant argues that Cartwright shows locking a cover to a top surface of the board, not to a bottom surface of the board (Remarks, page 13). This is not persuasive. The claims do not define a frame of reference for the board. It is common for windsurf board

to be upside down in the water, or when carried on top of a vehicle. When the board is upside down, the Cartwright apparatus is on the bottom surface of the board. There is no language in the claims that is inconsistent with such an interpretation.

15. Regarding claim 43, applicant argues that Cartwright does not teach an apparatus for covering a fin mounting fastener (Remarks, page 14). This is not persuasive. Cartwright shows member (4), which is the means for covering. It covers at least part of a mast track. The mast track fastens a sail to the board. A sail constitutes a fin. Thus the mast track is a fastener for mounting a fin to the board. Therefore, the mast track is a fin mounting fastener. It may not be the screw, bolt, rivet, or clip that applicant has in mind as a fastener, but it is a fastener that mounts a fin nonetheless.

16. Regarding claim 44, applicant argues that Cartwright's tab is not parallel to the channel (Remarks, page 14). This is not persuasive. The tab (46) has a dimension that is parallel to the dimension of the channel. Thus the tab is parallel to the channel.

17. Regarding claim 45, applicant argues that Cartwright fails to teach rotating the object with respect to the channel. This is not persuasive. Cartwright teaches rotating the member (40) (see Cartwright, column 2, lines 45-55). The step of rotating is one in a process of engaging the tab with a lip of the channel. Cartwright also teaches extending second shaft (38) in to the channel (see Cartwright, column 2, lines 45-55). This step of insertion is one in a process of preventing rotation of the apparatus.

18. Regarding claim 46, applicant again argues that Cartwright does not teach an apparatus for covering a fin mounting fastener (Remarks, page 15). This is not

persuasive. The mast track shown by Cartwright is a fin mounting fastener. The apparatus including member (40) covers at least a portion of the mast track. Thus the apparatus covers a fin mounting fastener.

19. Regarding claims 43 and 47, applicant argues that "Frizzell teaches an apparatus that replaces a traditional fin locking mechanism and, therefore, cannot cover a fin locking mechanism" (Remarks, page 15). This argument is not persuasive. Neither a "fin locking mechanism" nor anything that covers a "fin locking mechanism" is recited in claims 43 and 47. The rejection does not address a fin locking mechanism. Thus the argument is not responsive.

Conclusion

20. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Art Unit: 3617

21. Any inquiry concerning this communication should be directed to examiner Andrew D. Wright at telephone number 571-272-6690. The examiner can normally be reached Monday-Friday from 9:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano, can be reached at 571-272-6684. **The Central FAX Number for official communications is 571-273-8300.** The fax number directly to the examiner for unofficial communications is 571-273-6690.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Andrew D. Wright
Patent Examiner
Art Unit 3617

ANDREW D. WRIGHT
PRIMARY EXAMINER

AW 8/1/05